

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:21-cv-00244-MR**

ANDREW TAB KILPATRICK,)
)
 Plaintiff,)
)
 vs.)
)
 JACOB DARRELL ANDERSON, et al.,)
)
 Defendants.)
 _____)

ORDER

THIS MATTER is before the Court *sua sponte*.

The *pro se* Plaintiff filed this action pursuant to 42 U.S.C. § 1983 while he was incarcerated at the Cherokee County Detention Center.¹ On February 28, 2022, the Court issued an Order dismissing the Complaint on initial review and granting the Plaintiff 30 days in which to amend the Complaint. [Doc. 12]. The Plaintiff was cautioned that, should he fail to timely amend his Complaint, the action would be dismissed without prejudice and without further notice. [Id.].

The Plaintiff has failed to file an Amended Complaint, and the time to do so has expired. The Plaintiff appears to have abandoned this action, and

¹ It appears that the Plaintiff is now out of custody.

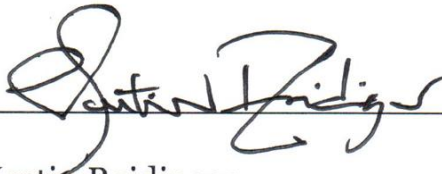
the Court is unable to proceed. This case will therefore be dismissed without prejudice. See Fed. R. Civ. P. 41(b) ("If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it."); Link v. Wabash R.R. Co., 370 U.S. 626, 630-33 (1962) (although Rule 41(b) does not expressly provide for *sua sponte* dismissal, Rule 41(b) does not imply any such restriction and a court has the inherent power to dismiss a case for lack of prosecution or violation of a court order).

IT IS, THEREFORE, ORDERED that this action is **DISMISSED WITHOUT PREJUDICE**.

IT IS FURTHER ORDERED that the Clerk of Court is directed to terminate this action.

IT IS SO ORDERED.

Signed: April 11, 2022

A handwritten signature in black ink, appearing to read "Martin Reidinger", is written over a horizontal line.

Martin Reidinger
Chief United States District Judge

